

# FOREST PRACTICES LEGISLATION AND RULE MAKING HISTORY

**1976-Present**  
**Updated March 2004**

<b>Rule Making Activities (+ statute changes &amp; other studies)</b>	<b>Developed</b>	<b>Proposed</b>	<b>Adopted</b>	<b>Effective</b>	<b>Other Information</b>	<b>Emergency Rules</b>
<p><u>Pre 1974:</u> The state's first Forest Practices Act (1946) required reforestation.</p> <p>The current Forest Practices Act, chapter 76.09 RCW, was enacted in 1974, partially amended in 1975, and further amended many times since.</p>					A nine-member Forest Practices Board was formed to adopt rules to protect soils, water, fish, wildlife, and public capital improvements from impacts of timber harvesting.	
<p><u>Forest Practices Rules Title 222 WAC</u></p> <ul style="list-style-type: none"> <li>▪ Practices &amp; procedures</li> <li>▪ Policy &amp; organization</li> <li>▪ Definitions</li> <li>▪ Application&amp; notification procedures</li> <li>▪ Road construction &amp; maintenance</li> <li>▪ Timber harvesting</li> <li>▪ Reforestation</li> <li>▪ Forest chemicals</li> <li>▪ Supplemental directives</li> <li>▪ Enforcement</li> <li>▪ Relationship to other lands &amp; regulations</li> </ul>	1974-1975	<p>1975</p> <p>DEIS=Draft Environmental Impact Statement</p> <p>Public hearings held statewide</p> <p>FEIS=Final EIS</p>	1976	7/16/76	<p>Interim regulations were adopted in Dec. 1974, and Feb., July and Oct. 1975.</p> <p>Two public members added to FPB in June 1975, making an 11-member Board.</p>	12/31/1974, and after 1975 legislation: 2/22/1975
<p><u>Class IV-Special Committee Report</u> Identified 14 issues related to forest practices impacts and environmental review. Study groups were set up to determine which issues should be Class IV-Special.</p>	1979				Classic U decision triggered this study. Major issues studied: unstable soils, watersheds, fish, slide areas, conversions, rare species, chemicals, parks, archaeological & historic sites.	
<p><u>Rule Changes:</u></p> <ul style="list-style-type: none"> <li>▪ Parks, archaeological &amp; historic sites</li> <li>▪ Threatened &amp; endangered species</li> <li>▪ Chemical applications</li> <li>▪ Forest roads</li> <li>▪ Timber harvest; slash and debris disposal</li> <li>▪ Post harvest site preparation</li> <li>▪ Reforestation of harsh sites</li> <li>▪ Notice of reforestation obligation</li> </ul>	1980-1981	<p>1981</p> <p>DEIS: 10/1981</p> <p>9 public hearings</p> <p>FEIS: 6/1982</p>	8/1982	10/1/1982	Forest Practices Advisory Committee led this effort.	
<p><u>Cumulative Effects Study</u> Phase 1 (Geppert)</p> <p><u>Riparian Habitat Study</u> Phase 1 (Sacket)</p>	1984				Studies were requested by FPB and published in 1984 and 1985. They summarized existing scientific knowledge.	
SEPA rules	1984	6/1984	8/1984	10/1/1984	The State Environmental Policy	

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					Act was amended in 1983, requiring agencies to adopt SEPA rules.	
<u>Reforestation Requirements for Eastern and Western Washington</u>	1986	8/1986	10/1986	12/1/1986		
<u>"TFW" Rule Package</u> <ul style="list-style-type: none"> <li>▪ Riparian management zones (RMZs)</li> <li>▪ Adaptive management</li> <li>▪ Alternate plans-Class III</li> <li>▪ Application of chemicals</li> <li>▪ Protection of tribal cultural resources</li> <li>▪ Resource management plans (RMPs)</li> <li>▪ Upland management areas (voluntary)</li> <li>▪ Interdisciplinary (ID) teams</li> <li>▪ Reforestation</li> </ul>	<p>Discussions on rule revisions began in 1984.</p> <p>TFW Agreement: 2/1987</p>	<p>5/1987</p> <p>DEIS: 5/1987</p> <p>9 public hearings</p> <p>FEIS: 10/1987</p>	11/1987	1/1/1988	<p>Interested parties (state agencies, industrial and small landowners, tribes, counties, environmental groups) came together at Port Ludlow in 1986 to identify ways to work cooperatively to adopt rules acceptable to each other. TFW Agreement spelled out ground rules and a consensus process for developing rule proposals, which were then recommended to the Forest Practices Board.</p> <p>CMER committee established.</p>	None
<u>Eastside RMZ Rules</u>	Continuation of TFW rules	<p>Spring 1988</p> <p>Supp. DEIS: 6/1988</p> <p>2 public hearings</p> <p>Supp. FEIS: 9/1988</p>	9/1988	11/1/1988	Included a provision about timber harvest within parks, cemeteries, etc.	None
<u>Class IV General Rules:</u> <ul style="list-style-type: none"> <li>▪ Conversion option harvest plan (voluntary).</li> <li>▪ Review by local government entities in "areas likely to convert" (ALTCs).</li> </ul>	<p>Began in 1988</p> <p>FPB Class IV-General Advisory Committee formed in 8/1988</p>	<p>10/1989</p> <p>2 public hearings</p>	10/1991	12/16/1991	Advisory committee included representatives from WFPA, NWIFC, DNR, contract loggers, consulting foresters, Audubon Society, WEC, WFFA, counties, and cities.	None
<u>Sustainable Forestry Roundtable-1989-90:</u>	No rules were developed.	None	None	None	Agreement not ratified; supported by 4 of 5 caucuses.	<u>Class IV-Special and Watershed Screening:</u>

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Attempted to address issues that were "left on the table" at the time of the original TFW Agreement.					Subsequent legislation was introduced to carry SFR ideas forward, but it did not pass.	Adopted: 11/1990 to 3/1991 Re-adopted: 3/1991 to 7/1991
<u>Rate of Harvest Monitoring</u> Requires DNR to monitor the rate of timber harvesting and report results to the FPB each year.	1991	12/1991  1 public hearing	3/1992	4/23/1992	Stakeholders were in agreement with this rule, so it was adopted earlier than the larger 1992 rule package.	None
<u>1992 Rule Changes</u> <ul style="list-style-type: none"> <li>Wetlands</li> <li>Cumulative Effects -Watershed Analysis</li> <li>Class IV Special &amp; Critical Wildlife Habitat</li> <li>Clearcut Size &amp; Timing</li> <li>Chemicals &amp; Fertilizers</li> <li>Stream Temperature</li> <li>Wildlife Reserve Trees and Down Logs</li> </ul>	Preproposal meetings held statewide in 10/1991.  Rules drafted by DNR, TFW & FPB Committees, which made recommendations to the full Board.	3/1992  DEIS: 4/1992  12 public hearings  Proposal revised: 5/1992  1 public hearing  FEIS: 6/1992	6/1992	8/2/1992	Legislature provided \$1.6 million to DNR & other agencies in FY93 if new forest practices rules were adopted by 6/30/1992.  FPB Wildlife Committee coordinated closely with L&I/DNR Safety Guidelines Committee.  Wildlife Reserve Tree rule proposals immediately followed publication of Reserve Tree Selection Guidelines in 5/1992.	<u>Class IV-Special and Chemicals and Pesticides:</u> Adopted: 7/1991 to 10/1991 Re-adopted: 10/1991 to 2/1992 2/1992 to 6/1992 6/1992 to 9/1992 <u>Watershed Analysis:</u> Adopted: 8/1991 to 12/1991 Re-adopted: 1/1992 to 4/1992 4/1992 to 7/1992
<u>Late 1992 Rule Changes</u> <ul style="list-style-type: none"> <li>Two year forest practices applications</li> <li>Editorial corrections</li> </ul>	Rules drafted by FPD staff.	9/1992  1 public hearing	11/1992	12/18/1992	Change made to chapter 76.09 RCW by legislature.	<u>Two Year Applications:</u> Adopted: 8.1992 to 11/1992  <u>Small Landowner Exception and Stream Temp Correction:</u> Adopted: 8/1992 to 12/1992 Re-adopted: 12/1992 to 4/1993
<u>Sunset of NSO 500 Acre Rule</u> <ul style="list-style-type: none"> <li>ESA Disclaimer</li> <li>Editorial corrections</li> </ul>	FPB began 30-day review on 11/12/1992 and	2/1993  1 public hearing	5/1993	6/19/1993	Influenced by the WDW lawsuit.	

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	directed that APA be started after this review was completed.					
<u>Fees for Forest Practices Applications</u>				7/1993	Change to the Forest Practices Act by the 1993 Legislature	
<u>Civil Penalty Rules</u>	Legislation directed DNR to recommend rules to the FPB.	10/1993 2 public hearings	12/1993	1/1/1994	Proposal was simplified and streamlined as a result of public comment.	
<u>Bogs Rule</u> Technical correction to 1992 wetlands rules.	TFW Wetlands Technical Advisory Group	4/1994 1 public hearing	8/1994	8/13/1994		<u>Bogs &amp; Fens:</u> Adopted: 11/1993 to 3/1994 Re-adopted: 3/1994 to 8/1994
<u>Marbled Murrelet</u>	Two rule options drafted by DNR in consultation with WDFW. FPB Wildlife Committee recommended both be proposed.	11/1993			Marbled murrelet was federally listed in 10/1992; and state listed in 10/1993.  MM Science Advisory Group (SAG) Report – 9/1993  These proposed rules were later combined with proposed northern spotted owl rules.	<u>Marbled Murrelets:</u> Adopted: 11/1992 to 3/1993 Re-adopted: 3/1993 to 7/1993 7/1993 to 11/1993 11/1993 to 3/1994 3/1994 to 6/1994
<u>Northern Spotted Owl:</u>	FPB requested proposals.  FPB Wildlife Committee developed a preferred alternative.  See below for more details.	8/1994			NSO state listed in 1/1988 and federally listed in 7/1990.  NSO SAG Report- 12/1993. Permanent 500-acre rule sunset date: 2/9/1994. FPB adopted the same language as an emergency rule to be in effect until a new permanent rule was developed and adopted. Second SAG Report: 7/1994	<u>Northern Spotted Owl:</u> Adopted: 2/1994 to 6/1994
<u>Northern Spotted Owl &amp; Marbled Murrelet</u> Combined into one package. Sent out for 30-day county, agency,	NSO Alternatives: ▪ Wildlife Comm. ▪ WFPA	8/1994 DEIS 1/1995  4 public hearings	5/22/1996	7/1/1996	3 NSO alternatives and 2 MM alternatives proposed originally.  “TFW proposal” replaced the	<u>NSO &amp; MM - Combined:</u> Re-adopted: 6/1994 to 10/1994 10/1994 to 2/1995

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tribal, and public review 6/1994.	<ul style="list-style-type: none"> <li>YIN-WEC</li> <li>Revised Alternative:</li> <li>MM Alternatives: <ul style="list-style-type: none"> <li>Occupied Stand</li> <li>MM-WAU</li> </ul> </li> </ul>	<p>– 3/1995</p> <p>Proposal revised Supp. DEIS &amp; public hearing – 2/1996</p> <p>Substantial change – 4/1996</p> <p>Public hearing and FEIS 5/1996</p>			<p>three NSO alternatives in Nov 1995 (after April 1995 public hearings, the FPB accepted TFW’s offer to develop a consensus rule for the NSO).</p> <p>TFW owl group continued to work on finalizing rule language &amp; SOSEA boundaries.</p> <p>Supplemental DEIS analyzed new information: TFW proposal and federally proposed 4(d) rule.</p>	<p>2/1995 to 5/1995 5/1995* to 9/1995 9/1995 to 1/1996 1/1996 to 5/1996 5/1996 to 7/1996</p> <p>* “Best” 500 acres added to NSO rule in May 1995.</p>
<u>Marbled Murrelet</u> 1996-97 Continued after owl rule adopted.	<p>FPB MM committee formed 5/1996. Two detection area approaches added to proposal 9/1996.</p> <p>DNR staff alternative - 5/1997</p> <p>Final staff proposal - 7/8/1997</p>	<p>MM proposed rules continued 6/1996</p> <p>Supp DEIS– 1/1997</p> <p>Public hearing 2/1997</p> <p>Supplemental notice 5/1997</p> <p>Public hearing 6/24/1997</p> <p>Supp FEIS 6/1997</p>	7/10/1997	8/22/1997	<p>Platform survey protocols are detailed in the Board Manual.</p>	<p><u>Marbled Murrelet</u>: Continued 7/1996 to 8/1996. Re-adopted: 8/1996 to 12/1996 12/1996 to 4/1997 4/1997 to 8/1997</p>
<u>Western Gray Squirrel</u>	<p>Rule concepts developed in 1994 by DNR and WDFW for FPB Wildlife Committee.</p>				<p>Listed by Washington Wildlife Commission 10/1993. Addressed in DEIS (1/1995) and FEIS (5/1996).</p> <p>FPB, upon recommendation from WDFW, decided not to adopt rules because landscape-planning efforts are anticipated to protect WGS 8/1996.</p>	
<u>North American Lynx</u>					Listed by Washington Fish and	

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					<p>Wildlife Commission in 10/1993. The three major owners of lynx habitat developed landscape plans, which were accepted by the Board in 11/1996.</p> <p>FPB chose not to adopt rules as long as plans are effective in providing habitat for the lynx. Annual reports will be made to the Board.</p> <p>Listed by the USFWS as threatened – 3/21/2000</p>	
<u>Conversions</u> <u>Landowner Landscape Plans</u>				<p>7/1997</p> <p>7/1997 - 12/2000</p>	<p>Changes to the Forest Practices Act (76.09) by the 1997 Legislature.</p> <p><u>Conversions:</u> Class IV-General applications are transferred to local government.</p> <p><u>Landowner Landscape Plans:</u> Up to 7 pilot plans for long-term wildlife management. None were submitted for approval.</p>	<p><u>More details:</u> Each city or county is required to adopt ordinances to regulate Class IV-General forest practices by 12/31/2001.</p>
<u>Columbia River Gorge National Scenic Area - Special Management Area Rules</u>	Negotiated rule making proposal developed 1996-1997	12/1997 for expedited adoption	2/24/1998	5/1/1998	<p>Gorge Plan Guidelines apply to forest practices in the Special Management Area. Co-adopted by Dept of Ecology.</p> <p>In 2/1998, DNR signed an MOU with the U. S. Forest Service and the Columbia Gorge Commission to implement the rules.</p>	
<u>Water Typing</u>	TFW developed recommendation 11/1996	<p>7/1997</p> <p>Proposal expired: 12/1998</p>			<p>First step in major rule revision.</p> <p>TFW working on Forestry Module, a more comprehensive proposal.</p>	<p><u>Water Type Rule:</u> Adopted: 11/1996 to 3/1997 Re-adopted: 3/1997 to 7/1997 7/1997 to 11/1997</p>

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					New water typing system proposed in Forestry Module initial draft 10/1998. See Forests and Fish Rules below.	11/1997 to 3/1998 3/1998 to 5/1998 5/1998 to 9/1998 9/1998 to 11/98 11/1998 to 3/1999 3/1999 to 4/1999 4/1999 to 8/1999 8/1999 to 11/1999 11/1999 to 3/2000
<u>Salmonids</u> Listed as threatened or endangered under ESA.					Steelhead listed by NMFS: Upper Columbia (endangered) - 8/1997 Snake River (threatened) 8/1997 Lower Columbia (threatened) 3/1998  Bull Trout listed as threatened by USFWS - 6/1998  West coast bull trout listed by USFWS - 11/1999	Salmonid E-Rule (#1) Adopted: 5/1998 to 9/1998 / Invalidated by court 9/1998  Salmonid E-Rule (#2) Adopted: 9/1998 to 11/1998  Salmonid E-Rule (#3) Adopted: 11/1998-3/1999  Salmonid E- Rule (#4) Adopted: 3/1999-4/1999  Salmonid E- Rule (#5) Adopted: 4/1999-8/1999  Salmonid E-Rule (#6) Adopted: 8/1999-11/1999  Salmonid E-Rule (#7) Adopted: 11/1999-3/2000
<u>Forestry Module</u> ▪ Initial Draft ▪ Proposals received by FPB  See Revised Permanent Rules below.	1998-99  April 1999: F&F Report  Environmental Proposal	Initial draft: 10/12/1998			Received by the Board Board requested environmental analysis in a DEIS, to be published in spring 2000	

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	Tribal Proposals					
<u>Salmon Recovery Act</u> ESHB 2091  (Forests and Fish legislation)	1999 legislative session			8/1999	Key changes included: <ul style="list-style-type: none"> <li>▪ FPB encouraged to adopt emergency and permanent rules consistent with the Forests and Fish Report.</li> <li>▪ Forest riparian easement program established</li> <li>▪ Tax credits</li> </ul>	
<u>Forest Practices Emergency Rules</u> <ul style="list-style-type: none"> <li>▪ Water typing</li> <li>▪ Riparian management zones</li> <li>▪ Unstable slopes</li> <li>▪ Roads and wetlands</li> <li>▪ Watershed analysis SEPA guidance</li> <li>▪ Adaptive management</li> <li>▪ Enforcement</li> <li>▪ Pesticides</li> <li>▪ Multiyear permits</li> <li>▪ Other rules</li> </ul>	Spring/ summer 1999	10/1999	1/20/2000	3/20/2000	Consistent with Forests and Fish Report of 4/1999.  Delayed effective date allows for statewide training.  New and revised FPB manuals also effective 3/20/2000.	ESHB 2091 allows these rules to be effective until permanent rules are adopted or until 6/30/2001, whichever is sooner.
<u>Additions to Emergency Rules</u> Small Forest Landowner Forestry Riparian Easement Program	Late 1999- March 2000	4/5/2000  Public hearing 5/9/2000	5/10/2000	7/3/2000	Establishes small forest landowner riparian easement program.	New chapter - Chapter 222-21 WAC
<u>Revised Permanent Rules</u> (per Forests and Fish Report)  DEIS on three alternatives: 1. Current rules 2. Forests and fish report 3. Combined some elements of environmental and tribal proposals	Spring/ Summer 2000   Late 1999 - spring 2000	Set for 9/2000  Published: 3/20/2000  Public hearing: 4/19/2000	Set for 4/2001	6/30/2001 Leg deadline	Proposal will start with emergency rules and expand to include other elements of the Forests and Fish Report.	



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<u>Revised Permanent Rules</u> (per Forests and Fish Report)  DEIS on three alternatives: 1. Current rules 2. Forests and fish report 3. Combined (some elements) of environmental and tribal proposals.	Fall/Spring 2001  Late 2000 - April 2001	2/17/2001  Published: 4/4/2001  2 public hearings: 4/24/2001 - Yakima and 4/25/2001 – Seattle	5/17/2001	7/1/2001		
<u>Small Forest Landowner Forestry Riparian Easement Program – 222-21</u>  SHB 2105, which amended Chapter 76.13 RCW - Stewardship of Non- Industrial Forests & Woodlands, made rule changes necessary.	2001 legislation  Negotiations by SFLO	8/8/2001  2 public hearings: 1/15/2002- Olympia and 1/17/2002- Spokane	2/13/2002	3/14/2002	Rule amendments to reflect changes to Chapter 76.13 RCW amendments (SSHB 2105). 565 Allows more flexibility for landowner participation: <ul style="list-style-type: none"> <li>▪ Removes requirement for an approved FPA.</li> <li>▪ Allows flexibility in valuation of timber.</li> <li>▪ Allows reimbursement for cost of preparing and recording easement.</li> <li>▪ Allows reimbursement of all business, occupation, and real estate excise taxes.</li> </ul>	<u>222-21:</u> Adopted: 08/2001 to 12/2001 Re-adopted: 11/2001 to 3/2002
<u>Reasonable Use</u>	8/8/2001	11/14/2001			Postponed rulemaking efforts due to budget constraints.	None
<u>SEPA Wildlife</u>	1/2002 – Negotiated rule making proposal.	2/13/2002  1 public hearing: 3/26/2002- Olympia	5/8/2002	6/9/2002	This rule updated 222-10-040 and 041.  Adds wording that clarifies that existing SEPA guidelines for T & E species do not apply to forest practices that are consistent with an approved wildlife conservation agreement for species covered by that agreement.	None

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<u>Class II FP, Salvage of Logging Residue</u> <u>WAC 222-16-050:</u>	2/2002 – Rules drafted by FPD staff	2/13/2002  1 public hearing: 7/16/2002 – Olympia	8/20/2002	9/19/2002	Corrects an error made in original rule package of 2001.	Effective: 2/2002 to 6/2002 7/2002 to 11/2002
<u>Small Forest Landowner Forestry</u> <u>Riparian Easement Program – 222-21</u> SSHB 2311, which amended chapter 76.13 RCW - Stewardship of Non- Industrial Forests & Woodlands, made rule changes necessary.	2002 legislation  Staff and SFLO Advisory Ctte	11/20/2002  2 public hearings: 1/15/2002 – Olympia	2/19/2003	3/30/2003	Eliminates compensation reduction for multiple entry easements.  Clarifies DNR authority to reimburse landowners for costs of easement preparation.	None
<u>Small Forest Landowner (SFLO) Road</u> <u>Maintenance and Abandonment Plans</u> <u>(RMAPs)</u> SSHB 1095 (2003), which amended chapters 76.09, 76.13, and 72.12 RCW, made rule changes necessary for Title 222 WAC. The legislation directs the Board to adopt emergency rules by October 31, 2003 that are to remain in effect until permanent rules can be adopted.	Emergency rule development 6/2003-9/2003 via stakeholder and public review processes	Board approved draft for public review 8/13/2003  2 public hearings: 9/25/2003 - Longview and 9/29/2003 – Colville	10/15/2003	10/31/2003	Defines certain terms as they pertain to SFLO RMAPs.  Alters planning requirements for SFLOs including the creation of a simplified planning checklist.  Exempts SFLO's checklist plans from continuing obligation requirements upon transfer of title.  Establishes a cost-share program to provide financial assistance for removal of fish blockages.	<u>Chapters 222-16, -20,</u> <u>and -24 WAC</u> Effective 10/31/2003
<u>Riparian Research Pilot Study</u> Experimental research treatments – Bull trout Overlay Study and Hardwood Conversion Study.	8/2003	12/2003	12/2003	12/2003	CMER will conduct two experimental research treatments to develop information that will be used to evaluate the FP rules and may result in the development of new or modified rules through the Adaptive Management process. The treatments will occur within the next three years and will be monitored for several years.	None

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<u>Procedures/Ethics</u>	4/2001 Staff	5/8/2002  1 public hearing: 1/13/2004 – Olympia	2/11/2004	3/19/2004	Provides guidance to the Board and the public on board procedures including public disclosure and ethics standards.	None
<u>Marbled Murrelet</u>	Spring/Summer 2003	12/2/2003  1 public hearing: 1/13/2004 – Olympia	2/11/2004	3/18/2004	Incorporates the updated 1/6/2003, Pacific Seabird Group (PSG) protocol as the standard for surveying for Marbled Murrelets in forests.  Provides a third year survey option for landowners.	None
<p><i>For more information on current rulemaking check the FPB home page: <a href="http://www.dnr.wa.gov">www.dnr.wa.gov</a></i></p> <p><i>Or contact:</i></p> <div> <div> FPB Rules Coordinator DNR-Forest Practices Division PO Box 47012 Olympia WA 98504-7012 </div> <div> Phone: 360.902.1413 Fax: 360.902.1789  <a href="mailto:forest.practicesboard@wadnr.gov">E-mail:forest.practicesboard@wadnr.gov</a> </div> </div>						